IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10896 of 2000
And
SPECIAL CIVIL APPLICATION No 10895 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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YOGESHKUMAR N VADNAGARA
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 10896 of 2000
MR JB DASTOOR for Petitioner No. 1
MRS PUNANI, AGP for Respondent No. 1,3-5
MR KM PATEL for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 13/08/2002

COMMON ORAL JUDGEMENT

#. Rule. Mrs.Punani, learned AGP, waives service of rule for respondent nos.1, 3 and 5 and Mr.K.M.Patel, waives service of rule for respondent No.2. With the consent of the parties, the matter is taken up for final hearing today.

#. The grievance of the petitioner is that, the departmental inquiry, which is pending against him since 1992, is not yet over. The petitioner has also prayed that, he should be paid subsistence allowance as he is placed under suspension. Today, the Court is informed by Mr.K.M.Patel, learned advocate, that the suspension order is already revoked and the petitioner is already taken back on duty. Mr.Patel, who is appearing for respondent No.2, has fairly submitted that, it will not be possible for the management to examine the witnesses because the witnesses may not be available in view of long passage of time. He, therefore, submitted that, it is not possible for him to make any statement as to when the departmental proceedings can be concluded. On the other hand, Mr.Dastoor, for the petitioner, argued that, in view of the aforesaid situation, suspension period of the petitioner may be regularised.

#. Considering the facts and circumstances of the case, it is directed that, in case, the pending inquiry is not over by 31.12.2002, the respondent - Corporation is directed to regularise the suspension period of the petitioner as per the Rules and Regulations and in accordance with law after 31.12.2002 and that exercise may be completed by 15.1.2003 without fail. In case, the departmental inquiry is not completed by 31.12.2002, the same shall be treated to have been closed and it will not be open to the management to proceed further with the inquiry after the aforesaid date, i.e. 31.12.2002. In my view, it is not proper to keep the hanging sword of pending inquiry upon the petitioner, and, endless inquiry cannot be allowed to proceed further in such manner.

#. So far as the notice of contempt is concerned, Mr.Patel has filed the affidavit of Mr.G.K.Makwana, IAS, the then Managing Director of the Corporation, wherein he has given his explanation and also tendered the apology, which is at page 56. He has clearly stated that, there was no deliberate or wilful intention to flout the order of this Court. The said apology is accepted. Considering the facts and circumstances of the case, notice of contempt is discharged.

#. Subject to what is stated above, this petition is allowed. Rule is made absolute to the aforesaid extent

with no order as to costs.

(P.B.Majmudar,J)
(pathan)